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09/923,334	08/08/2001	Adam Robinson	10587-003	1771

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EXAMINER

SAADAT, CAMERON

ART UNIT PAPER NUMBER

3713

DATE MAILED: 03/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/923,334

Applicant(s)

ROBINSON, ADAM

Examiner

Cameron Saadat

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 8/8/01.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 1-35, and 38-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foltz et al. (USPN 6,356,864; hereinafter Foltz) in view of Driscoll et al. (USPN 5,987,302; hereinafter Driscoll).**

Regarding claims 1, 13, 22, 29, 38, and 47, Foltz discloses a computer-assisted method of evaluating an essay, comprising: receiving an essay concerning an essay topic; electronically comparing textual content of the essay with a first number of terms related to said essay topic; identifying missed terms, the missed terms being those terms which are among said first number of terms, but are not present in the textual content of the essay (column 4, lines 24-32). Although Foltz identifies missed terms it is not explicitly disclosed that the missed terms are transmitted. However, it is old and well known to transmit missed terms, that is to transmit the desired

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answers in order to provide a user with feedback. Furthermore, Driscoll discloses an essay evaluation system wherein a user's response along with desired responses are transmitted to a user (column 12, lines 13-19). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify essay evaluation system that identifies missed terms described in Foltz and transmitting the evaluation results, in light of the teachings of Driscoll, in order to provide the user with comparative feedback regarding his/her performance.

Regarding claims 2-3, 11-12, 16-19, 24-25, 27-28, 31-34, and 40-43, Foltz discloses an essay evaluation system wherein a score and a subscore is generated concerning the essay (column 12, lines 65-67). It is not explicitly stated that Foltz's score concerning an essay (as per claims 2-3, 16-17, 24-25, 31-32, and 40-41) and a comment (as per claims 11-12, 18-19, 27-28, 33-34, 42-43) concerning the essay is *transmitted*. However, Driscoll discloses an essay evaluation system that transmits feedback and performance information including comments via the Internet. Hence, at the time of the invention, in view of Driscoll, it would have been obvious to a person of ordinary skill in the art to modify the evaluation system described in Foltz, by *transmitting* the score information, in order to provide the evaluation system over the Internet so that the evaluation of several users may occur at a remote location thereby requiring the evaluation system to transmit feedback information to the users.

Regarding claims 4-5, Foltz discloses an essay evaluation system that identifies missed terms in an essay. Foltz's system is not explicitly presented over the *Internet* (as per claim 4) or over a *network* (as per claim 5). However, Driscoll discloses an essay evaluation system that is provided over a network or the Internet (column 5, line 2). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the evaluation system

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described in Foltz, by providing the system over a network or the Internet, in light of the teachings of Driscoll, thereby providing a remote system that is capable of evaluating the essays of several users located in a remote location.

Regarding claims 6 and 7, Foltz discloses an essay evaluation system that identifies missed terms in an essay on a local computer. It is not explicitly stated that feedback information (missed terms) are displayed on a *first computer* and that the evaluation (comparing textual content) is *second computer*. However, the evaluation system disclosed in Driscoll teaches the feature of providing feedback on a user's computer and providing the evaluation on a second computer (column 5, lines 1-19). Hence, at the time of the invention, in view of Driscoll, it would have been obvious to a person of ordinary skill in the art to modify the evaluation system described in Foltz, by providing feedback on a user's computer and providing the evaluation on a second computer, in order to provide the evaluation system remotely so that the evaluation of several users may occur at a remote location.

Regarding claims 8-9, 20-21, 26, 35, and 44-45, Foltz discloses an essay evaluation system that provides a user with an essay question. It does not explicitly disclose the option of selection essay topics. However, Driscoll provides a user with the selection of various essay topics (see Fig. 11). At the time of the invention, it would have been obvious to an artisan of ordinary skill to modify the essay evaluation system described in Foltz, by allowing a user to designate an essay topic, in light of the teachings of Driscoll, thereby allowing a user to preview the essay before selecting the essay.

Regarding claim 10, Foltz discloses an essay evaluation system that identifies included terms, the included terms being those terms which are among said first number of terms, and are present in the textual content of the essay (column 4, lines 27-31).

Regarding claim 14, the examiner takes official notice that a hard disk, floppy disk or a CD-ROM are notoriously old and well known forms of computer storage medium. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide any of the aforementioned storage medium for storing software code.

Regarding claims 47-50, Foltz discloses a computer-assisted method of evaluating an essay, comprising: receiving a first essay on an essay question; extracting evaluation information associated with said selected essay question; electronically comparing textual content of said first essay with a first set of terms previously extracted from a model essay; identifying missed terms among said first set, the missed terms being those terms which are not present in the textual content of said first essay; identifying included terms among said first set (column 4, lines 24-32); Although Foltz identifies missed terms and included terms, it is not explicitly disclosed that the missed terms are transmitted. However, it is old and well known to transmit missed terms, that is, to transmit the desired answers in order to provide a user with feedback. Furthermore, Driscoll discloses an essay evaluation system wherein a user's response along with desired responses are transmitted to a user (column 12, lines 13-19). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify essay evaluation system that identifies missed terms described in Foltz and transmitting the evaluation results, in light of the teachings of Driscoll, in order to provide the user with comparative feedback regarding his/her performance.

Furthermore, Foltz discloses an essay evaluation system wherein a score and a subscore is generated concerning the essay (column 12, lines 65-67). It is not explicitly stated that Foltz's score concerning an essay and a comment concerning the essay is *transmitted*. However, Driscoll discloses an essay evaluation system that transmits feedback and performance information including comments via the Internet. Hence, at the time of the invention, in view of Driscoll, it would have been obvious to a person of ordinary skill in the art to modify the evaluation system described in Foltz, by transmitting the score information, in order to provide the evaluation system over the Internet so that the evaluation of several users may occur at a remote location thereby requiring the evaluation system to transmit feedback information to the users.

In addition, Foltz discloses an essay evaluation system that provides a user with an essay question. It does not explicitly disclose the option of selection essay topics. However, Driscoll provides a user with the selection of various essay topics (see Fig. 11). At the time of the invention, it would have been obvious to an artisan of ordinary skill to modify the essay evaluation system described in Foltz, by allowing a user to designate an essay topic, in light of the teachings of Driscoll, thereby allowing a user to preview the essay before selecting the essay.

**4. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Foltz et al. (USPN 6,356,864; hereinafter Foltz) in view of Driscoll et al. (USPN 5,987,302; hereinafter Driscoll), still further in view of Burstein et al. (USPN 6,366,759; hereinafter Burstein).**

Foltz and Driscoll disclose an essay evaluation system, yet neither reference explicitly discloses a time period for composing an essay. However, Burstein discloses an essay evaluation system wherein a user is provided a specific time period in which to compose an essay (column

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10, line 41). Hence, in view of Burstein, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the essay evaluation system described in the combination of Foltz and Driscoll, by providing a time period to compose an essay, in order to provide a standardized test by allocating a time period to compose an essay, thereby averting an unfair advantage in user performance.

**5. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Foltz et al. (USPN 6,356,864; hereinafter Foltz) in view of Driscoll et al. (USPN 5,987,302; hereinafter Driscoll), still further in view of Burstein et al. (USPN 6,366,759; hereinafter Burstein), still further in view of Maron (USPN 4,705,479).**

The combination of Foltz, Driscoll and Burstein discloses an essay evaluation system wherein the user is provided with feedback regarding performance in responding to an essay. The references do not explicitly disclose the step of allowing a user to revise an existing essay which was previously submitted for evaluation. However, Maron discloses a computerized question/answer evaluation system wherein the user is provided with the option to revise his/her answer that was already submitted (Column 7, lines 37-41). At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the essay evaluation system as described in the combination of Foltz, Driscoll, and Burstein by allowing a user to revise and resubmit a response to a question, in order to allow a user to attempt an improved response, based on the feedback provided for the previous response, thereby enhancing the learning experience.



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**6. Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Foltz et al. (USPN 6,356,864; hereinafter Foltz) in view of Driscoll et al. (USPN 5,987,302; hereinafter Driscoll), still further in view of Maron (USPN 4,705,479).**

The combination of Foltz and Driscoll discloses an essay evaluation system wherein the user is provided with feedback regarding performance in responding to an essay. The references do not explicitly disclose the step of allowing a user to revise an existing essay which was previously submitted for evaluation. However, Maron discloses a computerized question/answer evaluation system wherein the user is provided with the option to revise his/her answer that was already submitted (Column 7, lines 37-41). At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the essay evaluation system as described in the combination of Foltz and Driscoll by allowing a user to revise and resubmit a response to a question, in order to allow a user to attempt an improved response, based on the feedback provided for the previous response, thereby enhancing the learning experience.

### ***Conclusion***

**7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:**

- Berman (USPN 6,461,166) – discloses an essay evaluation system that compares a model answer (key words) to a student's answer.
- Ziv-El (USPN 6,302,698 B1) – discloses an on-line teaching and learning system wherein responses to questions are evaluated at a remote computer.

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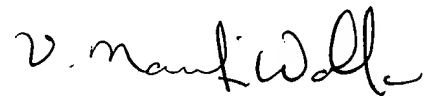
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cameron Saadat whose telephone number is 703-305-5490. The examiner can normally be reached on M-F 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin Wallace can be reached on 703-308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



CS  
March 6, 2003



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